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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/899,435

Filing Date: July 05, 2001

Appellant(s): OFFER, GERO

Peter Zura
Reg. No. 48,196
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 12, 2006 appealing from the Office action
mailed February 22, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

4,540,585	Kobata	2-2006
5,835,911	Nakagawa	11-1998
5,797,016	Chen	8-1998
6,018,654	Valentine	1-2000
5,742,668	Pepe et al.	4-1998
4,977,594	Shear	12-1990
6,029,065	Shah	2-2000

"Adsenger.com Homepage." Adsenger. 15 Aug. 2000.

<<http://web.archive.org/web/20000815210943/http://www.adsenger.com/>>.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-4,14,21,22,24 rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata (US 6,058,418), and further in view of Nakagawa et al. (US 5,835,911), herein referred to as Nakagawa.

As per claims 1, 21, Kobata discloses a telecommunication network, as claimed, comprising:
central server of an access or service provider, the central server having an interrogation part for interrogating hardware and software configurations of a plurality of terminal devices and a software transmitting part for loading at least one of software and data that is customized to the respectively detected hardware and software configuration onto one of the plurality of terminal devices (see Fig. 1, Infrastructure Data and columns 4 and 5, lines 57-67 and 1-18);

a plurality of terminal devices, each with a predetermined hardware and software configuration, each of the plurality of terminal devices including a response transmitting part for transmitting a configuration code identifying the respective hardware and software configuration to the central server in response to an inquiry by the interrogation part (see Fig. 1, Infrastructure Data with Serial No. and column 4, lines 57-67), each of the plurality of terminal devices also including a software receiving part for receiving and internally storing at least one of the transferred software and data (see column 5, lines 1-18), the interrogation part and the response transmitting part being designed to interrogate the respective hardware and software configuration and to transmit the respective configuration code when at least one of the terminal device logs onto the telecommunication network, predetermined times occur, and predetermined time intervals occur (see column 4, lines 57-67); and

distributed control parts, which are distributed in both the central server and the plurality of terminal devices, the distributed control parts implementing an interactive control over the software transmitting part.

Although the system disclosed by Kobata shows substantial features of the claimed invention (discussed above), it fails to disclose distributed control parts implementing an interactive control over the software transmitting part, and being constructed for the interactive specifying of a charging mode for at least one of downloaded software and downloaded data.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata, as evidenced by Nakagawa et al.

In an analogous art, Nakagawa discloses a software distributing system for updating a client with current software (see Abstract) and further showing an interactive control over transmitting software (see column 67, lines 50-60), and interactively specifying a charging mode for at least one of downloaded software and downloaded data (see column 68, lines 17-29).

Given the teaching of Nakagawa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata by employing interactive control and a charging mode, such as disclosed by Nakagawa, in order to allow the user to choose certain programs they want and different methods of payment that may suit their needs.

As per claim 2, Kobata in view of Nakagawa further disclose an offer memory in the central server to which the distributed control parts are connected, the offer memory being addressable via the configuration code and having a plurality of memory areas, in each of the memory areas at least one of a software and a data offer which is tuned to a separate hardware and software configuration is listed (see Kobata Fig. 5); and

wherein the distributed control parts include an offer transmitting part in the central server, the offer transmitting part for transferring contents of the respectively addressed offer memory area to the respective terminal device that has transmitted a configuration code, a transmission initiation unit in the central server, the transmission initiation unit for activating the transmitting part for loading at least one of software and data from at least one of the tuned software and the data offer (see Kobata Fig. 5 [112]), an offer display part in each of the plurality

of terminal devices for displaying the memory contents of the respectively addressed offer memory area, and a requesting part in each of the plurality of terminal devices for selecting offered software and data for loading onto the terminal device (see Kobata column 5, lines 41-44), which send a request signal for at least one of desired software and data and a reject signal for unwanted software and data to the transmission initiation unit of the central server (see Kobata column 5, lines 41-44, where accepting certain version implies an accept signal for the version wanted and a reject signal for the version unwanted).

As per claim 3, although Kobata in view of Nakagawa discloses substantial features of the claimed invention (discussed above), it fails to directly disclose a filtering method based on previously rejected software by the terminal device. However, it would have been obvious to a person having ordinary skill in the art to stop offering software, which the terminal device has rejected. The desirability and advantages of having such a filtering means would be for the convenience of the user since the user would not have to continually decline the same software they do not want, analogous to a software system for allowing a user to stop checking for software updates by checking a box.

As per claim 4, Kobata in view of Nakagawa further disclose a charging mode memory in the central server to which the distributed control parts are connected, the charging mode memory being allocated to the offer memory and having at least one charging mode stored for at least one of each offered software item (see Nakagawa column 27, lines 19-26); and

wherein the distributed control parts include a charging mode transmitting part in the central server connected to the charging mode memory for responding to the reception of the one of a configuration code and a request signal, a charging mode display part in each of the plurality of terminal devices for displaying the at least one charging mode for at least one of the offered and the selected software and the offered and the selected data, and a charging mode confirmation part in each of the plurality of terminal devices for specifying the charging mode (see column 68, lines 17-29).

As per claim 14, Kobata in view of Nakagawa further disclose that the software and data that can be downloaded onto a plurality of terminal devices include update software and update

data for updating software and data stocks that are stored in the plurality of terminal devices (see Nakagawa column 67, lines 23-29).

As per claim 22, Kobata in view of Nakagawa further disclose an offer display part for displaying offer information that is transmitted by the central server and a requesting part for selecting at least one of software and data that is offered for downloading for the purpose of outputting at least one of a request signal and reject signal to the central server (see Kobata column 5, lines 41-44, where accepting certain version implies an accept signal for the version wanted and a reject signal for the version unwanted).

As per claim 24, Kobata in view of Nakagawa further disclose operating data transmitting and receiving parts for transferring at least one of software and data to and from the central server (see Kobata columns 4 and 5, lines 57-67 and 1-18).

Claims 5,6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata in view of Nakagawa as applied to claim 1 above, and further in view of Chen et al. (U.S. 5,797,016), herein referred to as Chen.

As per claim 5, although Kobata in view of Nakagawa discloses substantial features of the claimed invention (discussed above), he fails to directly disclose a system where software can be stored and transferred to and from the server and terminal device. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Nakagawa, as evidenced by Chen.

In an analogous art, Chen discloses a system with a backup server for storing files for current software configurations (column 3, lines 32-34) from a terminal device (column 4, lines 39-43, where files can also be transmitted from the server to the terminal device [column 2, lines 63-67]), as claimed above.

Given the teaching of Chen, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Nakagawa by employing a server that can store files from terminal devices, such as disclosed by Chen, in order

to backup current software configurations incase new installations are not successful, the old software can be restored (column 3, lines 32-34).

As per claim 6, Kobata in view of Nakagawa in view of Chen further disclose that the operating data receiving and transmitting parts of both the central server and the plurality of terminal devices are so connected to the distributed control parts for implementing the interactive control that the data storage in the central server occurs only upon the selection of a corresponding offer by a user of the terminal device (column 4, lines 37-43, creation of the back job is considered conditional on the part of the administrator).

Claims 7,12,13,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata in view of Nakagawa as applied to claims 1 and 21 above, and further in view of Valentine (U.S. 6,018,654).

As per claims 7 and 23 although Kobata in view of Nakagawa discloses substantial features of the claimed invention (discussed above), he fails to directly disclose network-specific signaling parts on the basis of a SIM card. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Nakagawa, as evidenced by Valentine.

In an analogous art, Valentine disclose a system with a server with a transmitting part for transmitting software to mobile devices [Figure 3, (170, 20)] using signaling parts on the basis of a SIM card (column 3, lines 7-12).

Given the teaching of Valentine, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Nakagawa by employing signaling parts on the basis of a SIM card, such as disclosed by Valentine, in order to interactively download software (see Fig. 4, and columns 4, lines 15-27).

As per claim 12, although Kobata in view of Nakagawa discloses substantial features of the claimed invention (discussed above), he fails to directly disclose software for implementing non-network-bound auxiliary functions. However, these features are well known in the art and

would have been an obvious modification of the system disclosed by Kobata in view of Nakagawa, as evidenced by Valentine

Valentine discloses a system with a server with a transmitting part for transmitting software to mobile devices [Figure 3, (170, 20)] where the software being transmitted is non-network bound (column 1, lines 44-52, where tone data is considered non-network bound). Given the teaching of Valentine, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Nakagawa by employing software for implementing non-network-bound functions such as ring tones, such as disclosed by Valentine, in order to provide users with entertainment or, in the case of ring tones, help them determine the caller without picking up the phone (column 1, lines 29-38).

As per claim 13, it would have been obvious to a person having ordinary skill in the art to offer software for implementing auxiliary services, since the type of software is simply a choice left up to the designer. The desirability and advantages of implementing auxiliary services would be for conveniently allowing the user to connect to the Internet using well-known applications such as a web browser or IM chat client.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata in view of Nakagawa as applied to claims 1 and 15 above, and further in view of Pepe et al. (U.S. 5,742,668).

Although Kobata in view of Nakagawa disclose substantial features of the claimed invention (discussed above), he fails to directly disclose a central server, which acts as an intermediate station between two terminal devices for loading data from one terminal device to another. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Nakagawa, as evidenced by Pepe et al.

In an analogous art, Pepe et al. disclose a telecommunications network with a central server used for transmitting data between devices (column 13, lines 29-39). Devices include cellular phones, PDAs, and email from workstations [Figure 1, (32, 30, 22)].

Given the teaching of Pepe et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Nakagawa by employing a central server to act as an intermediate station to load software between devices, such as disclosed by Pepe et al., in order to communicate messages between devices from anywhere at anytime (column 1, lines 42-43).

Claims 9-11,25 rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata in view of Nakagawa as applied to claims 1,21 above, and further in view of Shear (U.S. 4,977,594).

As per claim 9, although Kobata in view of Nakagawa discloses substantial features of the claimed invention (discussed above), he fails to directly disclose determining the validity of software and usage authorization. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Nakagawa, as evidenced by Shear.

In an analogous art, Shear discloses a system for distributing data with a validation storage unit for storing authorization data, and determining the validity of data of terminal devices (column 14, lines 29-36).

Given the teaching of Shear, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Nakagawa by employing the validation storage unit, such as disclosed by Shear, in order to bill the user according to the amount of resources used (column 3, lines 52-59). In a software/data distributing environment where resources are not free, it would be advantageous for the supplier of the software/data to keep track of the software being deployed in order to charge the appropriate amount to the user.

As per claim 10, Kobata in view of Nakagawa in view of Shear further disclose that the software stocks and data stocks that are one of implemented in the plurality of terminal devices and downloaded into the plurality of terminal devices include application counter elements, the central server further including an arithmetic evaluation unit for evaluating the counter statuses of the application counter elements at one of predetermined times, time intervals, and times when

the relevant terminal device logs onto the telecommunication network, for the purpose of achieving a use-based charging mode (see Shear column 13, lines 47-60).

As per claims 11,25, Kobata in view of Nakagawa in view of Shear further disclose that the server includes an auxiliary information transmission unit which is connected to at least one of the comparison unit and the arithmetic evaluation unit for transmitting messages to the respective terminal device relating to at least one of the validity of implemented software, the usage authorization, and the application counter status for the respective user, the plurality of terminal devise including auxiliary information reception and display units for receiving and displaying the messages (see Shear column 15, lines 33-47).

Claims 15,17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata, and further in view of Shah (US 6,029,065) and further in view of Nakagawa (US 5,835,911).

As per claim 15, Kobata discloses a method of operating a telecommunication network having a plurality of terminal devices of users, each with a predetermined hardware and software configuration, and a central server of an access or service provider, the method comprising the steps of:

interrogating the current hardware and software configurations of one of the plurality of terminal devices in an interrogation step at one of a time during logon onto the telecommunication network, predetermined times, and time intervals;

transmitting, in a transmission step, the current hardware and software configuration of the respective terminal device to the central server;

setting up in the central server and transmitting to the respective terminal device, based on the respectively transmitted hardware and software configuration, offer information for a user of a respective terminal device; and

downloading onto the respective terminal device by the central server, in response to the registered one of the request and the reject signals, software and/or data that are suitable for the respective terminal device and that are not already present at the terminal device (see column 5, lines 1-18).

Although the system disclosed by Kobata shows substantial features of the claimed invention (discussed above), it fails to disclose displaying, in the context of an interactive menu in the respective terminal device, the offer information together with one of a select and a reject request, one of a request and a reject signal of the user which is generated by the user being registered.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata, as evidenced by Shah.

In an analogous art, Shah discloses a system where a mobile station can select a desired feature available to the mobile station (see Abstract) further, further showing an interactive menu in the respective terminal device with one of a select and reject request, one of a request and a reject signal of the user which is generated by the user being registered (see column 9, lines 54-61).

Given the teaching of Shah, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata by employing an interactive menu, such as disclosed by Shah, in order to allow a user to easily pick which features they want to implement.

Although the system disclosed by Kobata in view of Shah shows substantial features of the claimed invention (discussed above), it fails to disclose displaying the charging mode signals in the context of the interactive menu for selection by the user, and registering a charging mode in the central server in response to a selection made by the user.

Nonetheless, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Shah, as evidenced by Nakagawa et al.

In an analogous art, Nakagawa discloses a software distributing system for updating a client with current software (see Abstract) and further specifying a charging mode for at least one of downloaded software and downloaded data (see column 68, lines 17-29).

Given the teaching of Nakagawa, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Shah by

employing interactive control and a charging mode, such as disclosed by Nakagawa, in order to allow the user to choose different methods of payment that may suit their needs.

As per claim 17, although Kobata in view of Shah in view of Nakagawa discloses substantial features of the claimed invention (discussed above), it fails to directly disclose a filtering method based on previously rejected software by the terminal device. However, it would have been obvious to a person having ordinary skill in the art to stop offering software, which the terminal device has rejected. The desirability and advantages of having such a filtering means would be for the convenience of the user since the user would not have to continually decline the same software they do not want, analogous to a software system for allowing a user to stop checking for software updates by checking a box.

Claims 19,20 rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata in view of Shah in view of Nakagawa as applied to claims 1,21 above, and further in view of Shear (U.S. 4,977,594).

As per claim 19, although Kobata in view of Shah in view of Nakagawa discloses substantial features of the claimed invention (discussed above), he fails to directly disclose determining the validity of software and usage authorization. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Shah in view of Nakagawa, as evidenced by Shear.

In an analogous art, Shear discloses a system for distributing data with a validation storage unit for storing authorization data, and determining the validity of data of terminal devices (column 14, lines 29-36).

Given the teaching of Shear, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Shah in view of Nakagawa by employing the validation storage unit, such as disclosed by Shear, in order to bill the user according to the amount of resources used (column 3, lines 52-59). In a software/data distributing environment where resources are not free, it would be advantageous for the supplier

of the software/data to keep track of the software being deployed in order to charge the appropriate amount to the user.

As per claim 20, Kobata in view of Shah in view of Nakagawa in view of Shear further disclose evaluating in the central server, when at least one of a terminal device logs on, predetermined times occur, and time intervals occur, counter statuses of application counter elements of the software and data stocks that are implemented in the plurality of terminal devices for the purpose of performing a use-based charging, an evaluation result being transmitted to the plurality of terminal devices (see Shear column 13, lines 47-60).

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata in view of Shah in view of Nakagawa as applied to claim 15 above, and further in view of Chen et al. (U.S. 5,797,016), herein referred to as Chen.

Although Kobata in view of Shah in view of Nakagawa discloses substantial features of the claimed invention (discussed above), he fails to directly disclose a system where software can be stored and transferred to and from the server and terminal device. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Shah in view of Nakagawa, as evidenced by Chen.

In an analogous art, Chen discloses a system with a backup server for storing files for current software configurations (column 3, lines 32-34) from a terminal device (column 4, lines 39-43, where files can also be transmitted from the server to the terminal device [column 2, lines 63-67]), as claimed above.

Given the teaching of Chen, a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Shah in view of Nakagawa by employing a server that can store files from terminal devices, such as disclosed by Chen, in order to backup current software configurations incase new installations are not successful, the old software can be restored (column 3, lines 32-34).

Claim 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Kobata in view of Shah in view of Nakagawa as applied to claims 1 and 15 above, and further in view of Pepe et al. (U.S. 5,742,668). Although Kobata in view of Shah in view of Nakagawa disclose substantial features of the claimed invention (discussed above), he fails to directly disclose a central server, which acts as an intermediate station between two terminal devices for loading data from one terminal device to another. However, these features are well known in the art and would have been an obvious modification of the system disclosed by Kobata in view of Shah in view of Nakagawa, as evidenced by Pepe et al.

In an analogous art, Pepe et al. disclose a telecommunications network with a central server used for transmitting data between devices (column 13, lines 29-39). Devices include cellular phones, PDAs, and email from workstations [Figure 1, (32, 30, 22)]. Given the teaching of Pepe et al., a person having ordinary skill in the art would have readily recognized the desirability and advantages of modifying Kobata in view of Shah in view of Nakagawa by employing a central server to act as an intermediate station to load software between devices, such as disclosed by Pepe et al., in order to communicate messages between devices from anywhere at anytime (column 1, lines 42-43).

(10) Response to Argument

(A) Appellant contends that one having ordinary skill in the art would not be motivated to combine Kobata with Nakagawa.

In considering (A), the Examiner respectfully disagrees. The Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case Kobata discloses a system that can deliver content specifically tailored to a terminal machine depending on the hardware and software configuration (see column 4, lines 57-68). Nakagawa discloses a system that

provides an interactive control over software transmitting (see column 79, lines 5-23, where server provides upgraded version software based on hardware (computer model) and software (OS) configuration) and specifying a charging mode for the downloaded software (see column 67, lines 50-60 and column 68, lines 17-29). At the time of the invention a person having ordinary skill in the art could see that Kobata is useful for interrogating systems to determine a terminal's capability (CPU power, hard disk space, memory, etc.) and Nakagawa's system is useful for interactively delivering content to a terminal based on hardware/software configuration and providing a charging mode for that content. Regardless of the type of content, Nakagawa shows that it is old and well known for a system to provide a charging mode for monetary exchange between two entities. In response to Appellants concern that Kobata shows that the content may be advertisements, the Examiner provides supplemental evidence (US 4,540,585) to Adsenger which demonstrates one scenario where it would be useful to have a charging mode in delivering advertisements, the scenario where a user gets paid to view advertisements. Adsenger allows a user to view ads while surfing the internet. A software module gets installed on a users computer to deliver ads and users get paid to view the advertisements. Thus, there is proper motivation to combine the teaching of Kobata and Nakagawa as evidenced by Adsenger. One of ordinary skill in the art would have found it obvious to use the system of Kobata for interrogating the user computer to deliver ads pertinent to the user in combination with Nakagawa for allowing different options for payment.

(B) Appellant contends that Kobata and Nakagawa, alone or in combination, fail to disclose or suggest all the recited feature of claim 1.

In considering (B), the Examiner respectfully disagrees. The Examiner believes that when the server sends the software package to the client (see column 4, lines 57-60) and the software package checks the infrastructure data (see Fig. 1 where infrastructure data includes software/hardware information and a unique ID of the client) of the client and reports the data back to the server (see column 4, lines 60-64) it successfully provides enough evidence to

support an interrogation, a response from the client, and a configuration code (infrastructure data with Serial No. where data includes IP address, CPU info, HD Space, etc.).

Furthermore, the Examiner also believes that Nakagawa could be used to disclose a software and hardware configuration being transmitted (see column 79, lines 5-23, where server provides upgraded version software based on hardware (computer model) and software (OS) configuration).

In considering that transmitting the configuration code when at least one of the terminal device logs onto the telecommunication network, predetermined times occur, and predetermined time intervals occur, the Examiner believes that Kobata shows transmitting the configuration code at a predetermined time (i.e. after the server has sent the client software package to interrogate the client).

In addition, with regards to the distributed control parts being distributed in both the central server and the plurality of terminal devices, the Examiner believes that Kobata in view of Nakagawa show interaction of both the server and the client. Without both, a payment transaction could not be carried out. In response to Appellant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Appellant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

(C) Appellant contends that one having ordinary skill in the art would not be motivated to combine Kobata with Shah and Nakagawa.

In considering (C), the Examiner respectfully disagrees. Given the nature of the Kobata and Nakagawa references, one of ordinary skill in the art would have found it obvious to be able to provide an a reject request so unwanted software or content could be controlled. In any

system where a client is accepting content from a server at their own will, it would be desirable to reject anything the user would not like installed on their system.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Philip Chea

December 12, 2006

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